

Any requirement to pay out or roll over unused sick leave?

Q. Our policy provides employees with five days of paid sick leave each year. If workers do not use all this time off, are we required to pay them for that time or roll it over to the next year?

A. No. Paid sick leave is a matter of contract between employer and employee. Employers' policies may provide that entitlement to sick leave is contingent on illness only, and that employees lose all time unused at the end of the year. It should also be noted that employees must be allowed to use a portion of their accrued leave to attend to the illness of the employee's child, parent, spouse or domestic partner.

If an employer combines vacation, sick and other personal leave policies in a "paid time off" program, the Division of Labor Standards Enforcement has taken the position that accrued time off is subject to the same rules that govern vacation policies. Thus, under California law, an employee's paid time off would become "vested" once the worker has earned it; an employer may not attempt to divest or forfeit any portion of the benefits accrued.

As with vacation time, employers may establish a maximum amount of time off an employee may accumulate, after which he or she ceases to accrue additional paid time off.